

AMENDED IN ASSEMBLY APRIL 7, 2008
AMENDED IN ASSEMBLY MARCH 25, 2008
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2527

Introduced by Assembly Member Berg

February 21, 2008

An act to amend Sections 14132.44 and 14132.47 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2527, as amended, Berg. Medi-Cal: Targeted Case Management and Administrative Claiming process programs.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income persons receive health care services.

Under existing law, targeted case management (TCM) is a covered benefit under the Medi-Cal program. Existing law requires a TCM provider to be a local governmental agency (LGA) under contract with the department to provide TCM services, and permits a TCM provider to contract with a nongovernmental entity or the University of California, or both, to provide TCM services on its behalf under the conditions specified by the department in regulations.

This bill would, instead, authorize a LGA to contract with any private or public entity to provide TCM services on its behalf under the conditions specified by the department in regulations.

Existing law authorizes the department to contract with LGAs or local education consortiums to assist with the performance of administrative activities necessary for the proper and efficient administration of the

Medi-Cal program, which is known as the Administrative Claiming process. Existing law authorizes a LGA to subcontract with nongovernmental entities, as defined, to assist with the performance of these administrative activities.

This bill would, instead, authorize a LGA or a local education consortium to subcontract with any private or public entity to assist with the performance of the above-described administrative activities and would make conforming changes.

Existing law requires a local governmental agency that elects to provide TCM services, and each local governmental agency or local educational consortium participating in the Administrative Claiming process, to certify the availability and expenditure of 100% of the nonfederal share for the provision of either TCM services or the cost of performing administering claiming activities, as provided.

This bill would permit, to the extent consistent with federal law, as to TCM services, a local governmental agency, and, as to Administrative Claiming process activities, a local governmental agency or a local educational consortium, to certify appropriate expenditures made by another state or local public entity, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14132.44 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14132.44. (a) Targeted case management (TCM), pursuant to
- 4 Section 1915(g) of the Social Security Act as amended by Public
- 5 Law 99-272 (42 U.S.C. Sec. 1396n(g)), shall be covered as a
- 6 benefit, effective January 1, 1995. Nothing in this section shall be
- 7 construed to require any local governmental agency to implement
- 8 TCM.
- 9 (b) A TCM provider furnishing TCM services shall be a local
- 10 governmental agency under contract with the department to provide
- 11 TCM services. Local educational agencies shall not be providers
- 12 of case management services under this section.
- 13 (c) A TCM provider may contract with any private or public
- 14 entity to provide TCM services on its behalf under the conditions
- 15 specified by the department in regulations.
- 16 (d) Each TCM provider shall have all of the following:

1 (1) Established procedures for performance monitoring.

2 (2) A countywide system to prevent duplication of services and
3 to ensure coordination and continuity of care among providers of
4 case management services provided to beneficiaries who are
5 eligible to receive case management services from two or more
6 programs.

7 (3) A fee mechanism effective January 1, 1995, specific to TCM
8 services provided, which may vary by program.

9 (e) A TCM service provider or an entity under contract with a
10 TCM provider may provide TCM services to one or all of the
11 following groups of Medi-Cal beneficiaries, which shall be defined
12 in regulation:

13 (1) High-risk persons.

14 (2) Persons who have language or other comprehension barriers.

15 (3) Persons on probation.

16 (4) Persons who have exhibited an inability to handle personal,
17 medical, or other affairs.

18 (5) Persons abusing alcohol or drugs, or both.

19 (6) Adults at risk of institutionalization.

20 (7) Adults at risk of abuse or neglect.

21 (f) (1) A local governmental agency that elects to provide TCM
22 services to the groups specified in subdivision (e) shall, for each
23 fiscal year, for the purpose of obtaining federal medicaid matching
24 funds, submit an annual cost report as prescribed by the department
25 that certifies all of the following:

26 (A) The availability and expenditure of 100 percent of the
27 nonfederal share for the provision of TCM services from the local
28 governmental agency's general fund or from any other funds
29 allowed under federal law and regulation. *To the extent consistent*
30 *with federal law, a local governmental agency may certify*
31 *appropriate expenditures for TCM services that are made by*
32 *another state or local public entity. The local governmental agency*
33 *shall obtain and retain appropriate certifications from the*
34 *expending state or local public entity and retain documentation,*
35 *as required by the department.*

36 (B) The amount of funds expended on allowable TCM services.

37 (C) Its expenditures represent costs that are eligible for federal
38 financial participation.

39 (D) The costs reflected in the annual cost reports used to
40 determine TCM rates are developed in compliance with the

1 definitions contained in the Office of Management and Budget
2 (OMB) Circular A-87.

3 (E) Case management services provided in accordance with
4 Section 1396n(g) of Title 42 of the United States Code will not
5 duplicate case management services provided under any home-
6 and community-based services waiver.

7 (F) Claims for providing case management services pursuant
8 to this section will not duplicate claims made to public agencies
9 or private entities under other program authorities for the same
10 purposes.

11 (G) The requirements of subdivision (d) have been met.

12 (2) The department shall deny any claim if it determines that
13 any certification required by this subdivision is not adequately
14 supported for purposes of federal financial participation.

15 (g) Only a local governmental agency may submit TCM service
16 claims to the department for the performance of TCM services.

17 (h) During the period from January 1, 1995, through June 30,
18 1995, TCM services shall be reimbursed according to the interim
19 mechanism developed by the state and the Health Care Financing
20 Administration, which is reflected in the document entitled
21 "Agreement Between the Health Care Financing Administration
22 and the State of California, Department of Health Services." For
23 the 1995–96 fiscal year, the department shall establish an initial
24 rate of reimbursement. Effective July 1, 1996, and thereafter, TCM
25 services shall be reimbursed in accordance with regulations that
26 shall be adopted by the department.

27 (i) The department, in consultation with local governmental
28 agencies, and consistent with federal regulations, and the State
29 Medicaid Manual of the Department of Health and Human
30 Services, Health Care Financing Administration, shall adopt
31 regulations that define TCM services, establish the standards under
32 which TCM services qualify as a Medi-Cal reimbursable service,
33 prescribe the methodology for determining the rate of
34 reimbursement, and establish a claims submission and processing
35 system and method to certify local matching expenditures.

36 (j) (1) Notwithstanding any other provision of this section, the
37 state shall be held harmless, in accordance with paragraphs (2)
38 and (3) from any federal audit disallowance and interest resulting
39 from payments made by the federal medicaid program as
40 reimbursement for claims for providing TCM services pursuant

1 to this section, less the amounts already remitted to the state
2 pursuant to subdivision (m) for the disallowed claim.

3 (2) To the extent that a federal audit disallowance and interest
4 results from a claim or claims for which any local governmental
5 agency has received reimbursement for TCM services, the
6 department shall recoup from the local governmental agency that
7 submitted that disallowed claim, through offsets or by a direct
8 billing, amounts equal to the amount of the disallowance and
9 interest, in that fiscal year, less the amounts already remitted to
10 the state pursuant to subdivision (m) for the disallowed claim. All
11 subsequent claims submitted to the department applicable to any
12 previously disallowed claim, may be held in abeyance, with no
13 payment made, until the federal disallowance issue is resolved.

14 (3) Notwithstanding paragraphs (1) and (2), to the extent that a
15 federal audit disallowance and interest results from a claim or
16 claims for which the local governmental agency has received
17 reimbursement for TCM services performed by an entity under
18 contract with, and on behalf of, the participating local governmental
19 agency, the department shall be held harmless by that particular
20 local governmental agency for 100 percent of the amount of any
21 such federal audit disallowance and interest, less the amounts
22 already remitted to the state pursuant to subdivision (m) for the
23 disallowed claim.

24 (k) The use of local matching funds required by this section
25 shall not create, lead to, or expand the health care funding
26 obligations or service obligations for current or future years for
27 each local governmental agency, except as required by this section
28 or as may be required by federal law.

29 (l) TCM services are services which assist beneficiaries to gain
30 access to needed medical, social, educational, and other services.
31 Services provided by TCM providers, and their subcontractors,
32 shall be defined in regulation, and shall include at least one of the
33 following:

- 34 (1) Assessment.
- 35 (2) Plan development.
- 36 (3) Linkage and consultation.
- 37 (4) Assistance in accessing services.
- 38 (5) Periodic review.
- 39 (6) Crisis assistance planning.

(m) (1) Each local governmental agency shall contribute to the department a portion of the agency's general fund that has been made available due to the coverage of services described in this section under the Medi-Cal program. The contributed funds shall be reinvested in health services through the Medi-Cal program. The total contribution amount shall be equal to $33\frac{1}{3}$ percent of the amounts that have been made available under this section, but in no case shall this contribution exceed twenty million dollars (\$20,000,000) in a fiscal year less the amount contributed pursuant to subdivision (m) of Section 14132.47. Beginning with the 1994–95 fiscal year, each local governmental agency's share of the total contribution shall be determined by claims submitted and approved for payment through January 1 of the following calendar year. Claims received and approved for payment after January 1 for dates of service in the previous fiscal year shall be included in the following year's calculation. Each local governmental agency's share of the contribution for the previous fiscal year shall be determined no later than February 15 and shall be remitted to the state no later than April 1 of each year. The contribution amount shall be paid from nonfederal, general fund revenues, and shall be deposited in the Targeted Case Management Claiming Fund, which is hereby created, for transfer to the Health Care Deposit Fund.

(2) Moneys received by the department pursuant to this subdivision are hereby continuously appropriated, notwithstanding Section 13340 of the Government Code, to the department for the support of the Medi-Cal program, and the funds shall be administered in accordance with procedures prescribed by the Department of Finance. If not paid as provided in this section, the department may offset payments due to each local governmental agency from the state, not related to payments required to be made pursuant to this section, in order to recoup these funds for the Targeted Case Management Claiming Fund.

(3) This subdivision shall only apply to claims approved for the 1994–95 to 1997–98 fiscal years, inclusive.

(n) As a condition of participation and in consideration of the joint effort of the local governmental agencies and the department in implementing this section and the ongoing need of local governmental agencies to receive technical support from the department, as well as assistance in claims processing and program monitoring, the local governmental agencies shall cover the costs

1 of the administrative activities performed by the department. Each
2 local governmental agency shall annually pay a portion of the total
3 costs of administrative activities performed by the department
4 through a mechanism agreed to by the department and the local
5 governmental agencies, or if no agreement is reached by August
6 1 of each year, directly to the state. The department shall determine
7 and report the staffing requirements upon which projected costs
8 will be based. Projected costs shall include the anticipated salaries,
9 benefits, and operating expenses necessary to administer targeted
10 case management.

11 (o) For the purposes of this section a “local governmental
12 agency” means a county or chartered city.

13 SEC. 2. Section 14132.47 of the Welfare and Institutions Code
14 is amended to read:

15 14132.47. (a) It is the intent of the Legislature to provide local
16 governmental agencies the choice of participating in either or both
17 of the Targeted Case Management (TCM) and Administrative
18 Claiming process programs at their option, subject to the
19 requirements of this section and Section 14132.44.

20 (b) The department may contract with each participating local
21 governmental agency or each local educational consortium to assist
22 with the performance of administrative activities necessary for the
23 proper and efficient administration of the Medi-Cal program,
24 pursuant to Section 1396b(a) of Title 42 of the United States Code,
25 Section 1903a of the federal Social Security Act, and this activity
26 shall be known as the Administrative Claiming process.

27 (c) (1) As a condition for participation in the Administrative
28 Claiming process, each participating local governmental agency
29 or each local educational consortium shall, for the purpose of
30 claiming federal medicaid matching funds, enter into a contract
31 with the department and shall certify to the department the amount
32 of local governmental agency or each local educational consortium
33 general funds or any other funds allowed under federal law and
34 regulation expended on the allowable administrative activities.

35 (2) The department shall deny the claim if it determines that the
36 certification is not adequately supported for purposes of federal
37 financial participation.

38 (d) Each participating local governmental agency or local
39 educational consortium may subcontract with private or public
40 entities to assist with the performance of administrative activities

1 necessary for the proper and efficient administration of the
2 Medi-Cal program under the conditions specified by the department
3 in regulations.

4 (e) Each Administrative Claiming process contract shall include
5 a requirement that each participating local governmental agency
6 or each local educational consortium submit a claiming plan in a
7 manner that shall be prescribed by the department in regulations,
8 developed in consultation with local governmental agencies.

9 (f) The department shall require that each participating local
10 governmental agency or each local educational consortium certify
11 to the department both of the following:

12 (1) The availability and expenditure of 100 percent of the
13 nonfederal share of the cost of performing Administrative Claiming
14 process activities. The funds expended for this purpose shall be
15 from the local governmental agency's general fund or the general
16 funds of local educational agencies or from any other funds allowed
17 under federal law and regulation. *To the extent consistent with*
18 *federal law, a local governmental agency or local educational*
19 *consortium may certify appropriate expenditures for administrative*
20 *activities covered under the Administrative Claiming process,*
21 *which are made by another state or local public entity. The local*
22 *governmental agency or local educational consortium shall obtain*
23 *and retain appropriate certifications from the expending state or*
24 *local public entity and retain documentation, as required by the*
25 *department.*

26 (2) In each fiscal year that its expenditures represent costs that
27 are eligible for federal financial participation for that fiscal year.
28 The department shall deny the claim if it determines that the
29 certification is not adequately supported for purposes of federal
30 financial participation.

31 (g) (1) Notwithstanding any other provision of this section, the
32 state shall be held harmless, in accordance with paragraphs (2)
33 and (3), from any federal audit disallowance and interest resulting
34 from payments made to a participating local governmental agency
35 or local educational consortium pursuant to this section, less the
36 amounts already remitted to the state pursuant to subdivision (m)
37 for the disallowed claim.

38 (2) To the extent that a federal audit disallowance and interest
39 results from a claim or claims for which any participating local
40 governmental agency or local educational consortium has received

1 reimbursement for Administrative Claiming process activities, the
2 department shall recoup from the local governmental agency or
3 local educational consortium that submitted the disallowed claim,
4 through offsets or by a direct billing, amounts equal to the amount
5 of the disallowance and interest, in that fiscal year, less the amounts
6 already remitted to the state pursuant to subdivision (m) for the
7 disallowed claim. All subsequent claims submitted to the
8 department applicable to any previously disallowed administrative
9 activity or claim, may be held in abeyance, with no payment made,
10 until the federal disallowance issue is resolved.

11 (3) Notwithstanding paragraph (2), to the extent that a federal
12 audit disallowance and interest results from a claim or claims for
13 which the participating local governmental agency or local
14 educational consortium has received reimbursement for
15 Administrative Claiming process activities performed by an entity
16 under contract with, and on behalf of, the participating local
17 governmental agency or local educational consortium, the
18 department shall be held harmless by that particular participating
19 local governmental agency or local educational consortium for
20 100 percent of the amount of the federal audit disallowance and
21 interest, less the amounts already remitted to the state pursuant to
22 subdivision (m) for the disallowed claim.

23 (h) The use of local matching funds required by this section
24 shall not create, lead to, or expand the health care funding
25 obligations or service obligations for current or future years for
26 any participating local governmental agency or local educational
27 consortium, except as required by this section or as may be required
28 by federal law.

29 (i) The department shall deny any claim from a participating
30 local governmental agency or local educational consortium if the
31 department determines that the claim is not adequately supported
32 in accordance with criteria established pursuant to this subdivision
33 and implementing regulations before it forwards the claim for
34 reimbursement to the federal medicaid program. In consultation
35 with local government agencies and local educational consortia,
36 the department shall adopt regulations that prescribe the
37 requirements for the submission and payment of claims for
38 administrative activities performed by each participating local
39 governmental agency and local educational consortium.

1 (j) Administrative activities shall be those determined by the
2 department to be necessary for the proper and efficient
3 administration of the state's medicaid plan and shall be defined in
4 regulation.

5 (k) If the department denies any claim submitted under this
6 section, the affected participating local governmental agency or
7 local educational consortium may, within 30 days after receipt of
8 written notice of the denial, request that the department reconsider
9 its action. The participating local governmental agency or local
10 educational consortium may request a meeting with the director
11 or his or her designee within 30 days to present its concerns to the
12 department after the request is filed. If the director or his or her
13 designee cannot meet, the department shall respond in writing
14 indicating the specific reasons for which the claim is out of
15 compliance to the participating local governmental agency or local
16 educational consortium in response to its appeal. Thereafter, the
17 decision of the director shall be final.

18 (l) Participating local governmental agencies or local educational
19 consortium may claim the actual costs of nonemergency,
20 nonmedical transportation of Medi-Cal eligibles to Medi-Cal
21 covered services, under guidelines established by the department,
22 to the extent that these costs are actually borne by the participating
23 local governmental agency or local educational consortium. A
24 local educational consortium may only claim for nonemergency,
25 nonmedical transportation of Medi-Cal eligibles for Medi-Cal
26 covered services, through the Medi-Cal administrative activities
27 program. Medi-Cal medical transportation services shall be claimed
28 under the local educational agency Medi-Cal billing option,
29 pursuant to Section 14132.06.

30 (m) (1) Each participating local governmental agency shall
31 contribute to the department a portion of the agency's general fund
32 that has been made available due to the coverage of administrative
33 activities described in this section under the Medi-Cal program.
34 The contributed funds shall be reinvested in health services through
35 the Medi-Cal program. The total contribution amount shall be
36 equal to $33\frac{1}{3}$ percent of amounts made available under this section,
37 but in no case shall the contribution exceed twenty million dollars
38 (\$20,000,000) a fiscal year less the amount contributed pursuant
39 to subdivision (m) of Section 14132.44. Beginning with the
40 1994–95 fiscal year, each local governmental agency's share of

1 the total contribution shall be determined by claims submitted and
2 approved for payment through January 1 of the following calendar
3 year. Claims received and approved for payment after January 1
4 for dates of service in the previous fiscal year shall be included in
5 the following year's calculation. Each local governmental agency's
6 share of the contribution for the previous fiscal year shall be
7 determined no later than February 15 and shall be remitted to the
8 state no later than April 1 of each year. The contribution amount
9 shall be paid from nonfederal, general fund revenues and shall be
10 deposited in the Administrative Claiming Fund for transfer to the
11 Health Care Deposit Fund.

12 (2) Moneys received by the department pursuant to this
13 subdivision are hereby continuously appropriated to the department
14 for support of the Medi-Cal program, and the funds shall be
15 administered in accordance with procedures prescribed by the
16 Department of Finance. If not paid as provided in this section, the
17 department may offset payments due to each participating local
18 governmental agency from the state, not related to payments
19 required to be made pursuant to this section in order to recoup
20 these funds for the Administrative Claiming Fund.

21 (3) This subdivision shall only apply to claims approved for the
22 1994–95 to 1997–98 fiscal years, inclusive.

23 (n) As a condition of participation in the Administrative
24 Claiming process and in recognition of revenue generated to each
25 participating local governmental agency and each local educational
26 consortium in the Administrative Claiming process, each
27 participating local governmental agency and each local educational
28 consortium shall pay an annual participation fee through a
29 mechanism agreed to by the state and local governmental agencies
30 and local educational consortia, or, if no agreement is reached by
31 August 1 of each year, directly to the state. The participation fee
32 shall be used to cover the cost of administering the Administrative
33 Claiming process, including, but not limited to, claims processing,
34 technical assistance, and monitoring. The department shall
35 determine and report staffing requirements upon which projected
36 costs will be based. The amount of the participation fee shall be
37 based upon the anticipated salaries, benefits, and operating
38 expenses, to administer the Administrative Claiming process and
39 other costs related to that process.

1 (o) For the purposes of this section “participating local
2 governmental agency” means a county, chartered city, Native
3 American Indian tribe, tribal organization, or subgroup of a Native
4 American Indian tribe or tribal organization, under contract with
5 the department pursuant to subdivision (b).

6 (p) For purposes of this section, “local educational agency”
7 means a local educational agency, as defined in subdivision (h) of
8 Section 14132.06, that participates under the Administrative
9 Claiming process as a subcontractor to the local educational
10 consortium in its service region.

11 (q) (1) For purposes of this section, “local educational
12 consortium” means a local agency that is one of the service regions
13 of the California County Superintendent Educational Services
14 Association.

15 (2) Each local educational consortium shall contract with the
16 department pursuant to paragraph (1) of subdivision (c).

17 (r) (1) Each participating local educational consortium shall be
18 responsible for the local educational agencies in its service region
19 that participate in the Administrative Claiming process. This
20 responsibility includes, but is not limited to, the preparation and
21 submission of all administrative claiming plans, training of local
22 educational agency staff, overseeing the local educational agency
23 time survey process, and the submission of detailed quarterly
24 invoices on behalf of any participating local educational agency.

25 (2) Each participating local educational consortium shall ensure
26 local educational agency compliance with all requirements of the
27 Administrative Claiming process established for local governmental
28 agencies.

29 (3) Ninety days prior to the initial participation in the
30 Administrative Claiming process, each local educational
31 consortium shall notify the department of its intent to participate
32 in the process, and shall identify each local educational agency
33 that will be participating as its subcontractor.

34 (s) (1) Each local educational agency that elects to participate
35 in the Administrative Claiming process shall submit claims through
36 its local educational consortium or through the local governmental
37 agency, but not both.

38 (2) Each local educational agency participating as a
39 subcontractor to a local educational consortium shall comply with

1 all requirements of the Administrative Claiming process established
2 for local governmental agencies.

3 (t) The requirements of subdivision (m) shall not apply to claims
4 for administrative activities, pursuant to the Administrative
5 Claiming process, performed by public health programs
6 administered by the state.

7 (u) A participating local governmental agency or a local
8 educational consortium may charge an administrative fee to any
9 entity claiming Administrative Claiming through that agency.

10 (v) The department shall continue to administer the
11 Administrative Claiming process in conformity with federal
12 requirements.

13 (w) The department shall provide technical assistance to all
14 participating local governmental agencies and local educational
15 consortia in order to maximize federal financial participation in
16 the Administrative Claiming process.

17 (x) This section shall be applicable to Administrative Claiming
18 process activities performed, and to moneys paid to participating
19 local governmental agencies for those activities in the 1994–95
20 fiscal year and thereafter, and to local educational consortia in the
21 1998–99 fiscal year and thereafter.